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IN THE

Supreme Court of the United States

OCTOBER TERM, 1959.

No. 823

SIMS MOTOR TRANSPORT LINES, INC., an Illinois Corporation,

Appellant,

vs.

UNITED STATES OF AMERICA; INTERSTATE COMMERCE COMMISSION,

On Appeal From The United States District Court
For The Northern District Of Illinois

JURISDICTIONAL STATEMENT

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The Schefler Press, Inc.—ANdover 3-6850

INDEX

	PAGE
Jurisdiction	1
Statutes Involved	2
Questions Presented	5
Statement	6
Argument	12
Conclusion	31
Appendix	
Report of Interstate Commerce Commission Decided March 13, 1956	1a
Interstate Commerce Commission's Cease and Desist Order Dated March 13, 1956	11a
Report of Interstate Commerce Commission Decided July 15, 1957	12a
Interstate Commerce Commission's Cease and Desist Order Dated July 15, 1957	24a
Interstate Commerce Commission's Second Report on Reconsideration Decided May 27, 1958	25a
Interstate Commerce Commission's Cease and Desist Order Dated May 27, 1958	37a
Findings of Fact, Conclusions of Law and Order of the District Court	38a

CITATIONS.

CASES.

Ace Air Lines v. United States, U. S. Dist. Court S.D. Iowa, Jan. 25, 1960 (unreported officially; reprinted C.C.H. Federal Carriers Service § 81, 295)	15, 16
Alabama Great Southern Railway Co. v. United States, 340 U.S. 216	2

PAGE

American Trucking Association v. United States, 326 U.S. 77 2

American Trucking Associations v. United States, 344 U.S. 298 2

Arrow Transp. Co. of Delaware v. Collett, 53 M.C.C. 411 22

Bell Motor Freight, Inc., 61 M.C.C. 569 (9 Federal Carriers Case § 32, 731) 12

Boulevard Transit Lines v. United States, 77 F. Supp. 594 (D.C. N.J. 1948) 17

Brown and Rasche, 8 F.C.C. 32, 183 ..... 26, 31

Carroll, 54 M.C.C. 664 29

Comptroller of Treasury v. Rockhill, 205 Md. 226, 107 A.(2d) 93 17

Deaton Truck Lines, Inc., 43 M.C.C. 585 ..... 19, 26, 28

Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 ..... 9, 12, 13, 14, 15, 16, 29, 30

Dunn v. Lahotski, 62 M.C.C. 103 ..... 18, 24

E. Brooke Matlock, No. M.C.F. 6886; (13 Federal Carrier Cases § 34, 665) 13

Eastern Carrier Corp., 28 M.C.C. 481 21

Ellington Bros. Common Carrier Application, 10 M.C.C. 142 23

Ford Bros. Extension of Operations, 47 M.C.C. 731 23

Fleetline, Inc. v. Osbourn Trucking Co., 54 M.C.C. 221 22

Freightway Corporation Extension, 51 M.C.C. 227 ..... 18, 23

Grimes Contract Carrier Application, 22 M.C.C. 22 23

Interstate Van Service, Inc., 62 M.C.C. 325 ..... 18, 24

Iron and Steel From and To Maryland, 62 M.C.C. 389 28

PAGE

J. C. Johnson, Application 61 M.C.C. 783 19

McCullough Transfer Co., 54 M.C.C. 241 ..... 26, 31

Miller Extension of Operations, 21 M.C.C. 401 23

Nelson v. United States, 355 U.S. 554 ..... 15, 17

Portland Motor Transport, 8 F.C.C. 32, 369 26

R. B. Wilson, 64 M.C.C. 39 19

Smith Common Carrier Application, 31 M.C.C. 296 21

Strawn Extension of Operations, 23 M.C.C. 281 23

Watson Bros. Transp. Co. v. United States, 132 F. Supp. 905 (affirmed 350 U. S. 927) 17

Wilson Common Carrier Application, 64 M.C.C. 39 27

STATUTES.

Title 49, U.S. Code, Sec. 301 *et. seq.* 6, 16

Title 5, U.S. Code, Sec. 1009 1

Title 28, U.S. Code, Sec. 2321 through 2323 1

Title 28, U.S. Code, Sec. 1253 1

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JURISDICTIONAL STATEMENT.

JURISDICTION.

1. This is an action to enjoin, set aside, annul and suspend an order of the Interstate Commerce Commission (Appendix 24a) brought under Sections 205(g) of Part II of the Interstate Commerce Act, Title 49, U.S. Code, Section 305(g), Section 10 of the Administrative Procedure Act, Title 5, U.S. Code, Section 1009 and Title 28, U.S. Code, Section 1336 and Sections 2321 through 2323, inclusive.

2. The judgment of the district court, sought to be reviewed, was dated and entered on November 30, 1959 (Appendix 38a). Notice of appeal was filed in the United

States District Court for the Northern District of Illinois (Eastern Division) on January 28, 1960.

3. Jurisdiction to hear this appeal is conferred on this Court by Section 1253 of Title 28 of the United States Code (28 U.S.C. 1952 ed. Sec. 1253).

4. The following cases sustain the jurisdiction of this Court to entertain a direct appeal from an order of a district court of three judges denying an injunction against the operation of an order of the Interstate Commerce Commission;

American Trucking Association v. *United States*, 326 U.S. 77.

Alabama Great Southern Railway Co. v. *United States*, 340 U.S. 216.

American Trucking Association v. *United States*, 344 U.S. 298.

STATUTES INVOLVED

Interstate Commerce Act, Part II (Act of August 9, 1935, 49 State 551)

Sec. 206.(1) Except as otherwise provided in this section and in section 310a of this title, no common carrier by motor vehicle subject to the provisions of this chapter shall engage in any interstate or foreign operation of any public highway, or within any reservation under the exclusive jurisdiction of the United States, unless there is in force with respect to such carrier a certificate of public convenience and necessity issued by the Commission authorizing such operations: Provided, however, That, subject to Section 310 of this title, if any such carrier or predecessor in interest was in bona fide operation as a common carrier by motor vehicle on June 1, 1935, over the route

or routes or within the territory for which application is made and has so operated since that time, or if engaged in furnishing seasonal service only, was in bona fide operation on June 1, 1935, during the season ordinarily covered by its operation and has so operated since that time, except in either instance as to interruptions of service over which the applicant or its predecessor in interest had no control, the Commission shall issue such certificate without requiring further proof that public convenience and necessity will be served by such operation, and without further proceedings, if application for such certificate was made to the Commission as provided in paragraph (b) of this section and within one hundred and twenty days after October 1, 1935, and if such carrier was registered on June 1, 1935, under any code of fair competition requiring registration, the fact of registration shall be evidence of bona fide operation to be considered in connection with the issuance of such certificate. Otherwise the application for such certificate shall be decided in accordance with the procedure provided for in section 307(a) of this title and such certificate shall be issued or denied accordingly. Pending the determination of any such application the continuance of such operation shall be lawful; And provided further, That this paragraph shall not be so construed as to require any such carrier lawfully engaged in operation solely within any State to obtain from the Commission a certificate authorizing the transportation by such carrier of passengers or property in interstate or foreign commerce between places within such State if there be a board in such State having authority to grant or approve such certificates and if such carrier has obtained such certificate from such board. Such transportation shall, however, be otherwise subject to the jurisdiction of the Commission under this chapter.

Section 312(a) Certificates, permits, and licenses shall be effective from the date specified therein, and